

29th July, 2027

Ambit of Consumer Protection Law and the Legal Profession: An Analytical Study of *Bar of Indian Lawyers v. D.K. Gandhi*

INTRODUCTION

The intersection between professional liability and consumer welfare legislation has long been a subject of intense judicial scrutiny in India. The foundational question of whether a professional—whose work is intrinsically rooted in the judicial system with specialized skill and expertise—can be equated with a commercial trader or businessman remains central to this debate. This article provides an in-depth analysis of the landmark judgment passed by the Supreme Court of India in *Bar of Indian Lawyers through its President Jasbir Singh Malik v. D. K. Gandhi PS National Institute of Communicable Diseases and Anr.*, decided on May 14, 2024. The judgment authoritatively determines the maintainability of complaints alleging "deficiency in service" against practicing advocates under the Consumer Protection Act, 1986 (as re-enacted in 2019) and delineates the alternative statutory frameworks governing professional misconduct in the legal domain.

Brief Facts

The factual matrix precipitating this ruling arises from a dispute where a client filed a complaint against their advocate before a District Consumer Forum.

- The respondent, Mr. D.K. Gandhi, engaged an advocate to file a complaint under Section 138 of the Negotiable Instruments Act.
- The respondent alleged that the advocate received payment on his behalf but withheld the instruments, demanding an additional fee in cash.
- The advocate subsequently filed a suit for recovery of fees.
- The respondent sought compensation before the District Consumer Forum, alleging deficiency in service.
- The advocate challenged the jurisdiction of the forum, arguing that advocates are not covered under the Consumer Protection Act.
- While the District Forum rejected the objection,

- the State Commission initially allowed the advocate's appeal, but the National Consumer Disputes Redressal Commission (NCDRC) later passed an order stating that such complaints are maintainable.
- The Supreme Court subsequently heard the issues with connected appeals filed by the Bar Council of India as well as other various bar associations against the NCDRC order.

Issue(s) for Adjudication

The Court addressed whether a complaint alleging "deficiency in service" against an advocate is maintainable under the Consumer Protection Act (CP Act). The broader inquiry involved:

- Whether the Legislature intended to include professionals within the purview of the CP Act.
- Whether the legal profession is *sui generis*.
- Whether services provided by an advocate constitute a "contract of personal service" and are thus excluded from the definition of "Service" under Section 2(42) of the 2019 Act.
- What the appropriate mechanism for regulating advocates is if they fall outside the CP Act.

Findings of the Court

The Supreme Court set aside the NCDRC order, holding that the legal profession is excluded from the ambit of the CP Act.

Legislative Intent

The Court examined the history and objects of the CP Act, noting that it was enacted to protect consumers from unfair trade and unethical business practices by traders and manufacturers. The Court found no evidence that the Legislature intended to bring professionals, such as advocates or doctors, within the Act's scope. It noted that "Profession" involves advanced education and specialized mental work, which cannot be equated with the commercial nature of "Trade" or "Business".



Abinash Agarwal

Associate Partner

LLB., Faculty of Law,
University of Delhi, B.Com (Hons.),
University of Delhi

Expertise

Civil Litigation, Commercial
Arbitration, Legal Due Diligence,
Legal Compliances



Suryansh Baswan

Research Partner

LL.B. and B.A. (Hons.) English,
University of Delhi, Delhi

Legal Profession as *Sui Generis*

The Court held that the legal profession is unique because it is an integral part of the justice delivery system. Advocates owe duties not only to the client but also to the court, the opponent, and colleagues, with the duty to the court often being paramount. Because advocates operate in an environment where they have no control over judicial outcomes and are bound by professional ethics, the nature of their work cannot be compared to that of a service provider in a commercial market.

Contract of Personal Service

Analysing the definition of "Service" under the CP Act, the Court observed that it explicitly excludes services rendered "under a contract of personal service". Referring to the *Vakalatnama*—the formal document appointing an advocate—the Court noted that the client exercises direct control over the advocate's duties. Consequently, the relationship between an advocate and a client fits the criteria of a contract of personal service, placing it outside the definition of "service" under the CP Act.

Regulatory Framework

The Court clarified that excluding advocates from the CP Act does not mean they enjoy immunity from accountability. Advocates are governed by the **Advocates Act, 1961**, and the Bar Council of India Rules, which provide a robust mechanism for addressing professional misconduct. Furthermore, advocates remain liable for tortious or criminal acts under the ordinary civil and criminal laws of the land.

Earlier Judgments and Precedents

The Court engaged with several prior decisions:

- ***State of Karnataka v. Vishwabharathi House Building Coop. Society (2003)***: Followed to interpret the legislative purpose of the CP Act as a mechanism to protect consumers against unscrupulous business practices.

- ***Indian Medical Association v. V.P. Shantha (1995)***: The Court distinguished this judgment, which had previously included medical practitioners under the CP Act, because the legal profession operates under different constraints and duties. The Court expressed that *V.P. Shantha* requires reconsideration and referred it to a larger bench.
- ***Himalayan Cooperative Group Housing Society v. Balwan Singh (2015)***: Cited to explain the fiduciary and agency-based nature of the advocate-client relationship.

Conclusion and Key Takeaways

The Supreme Court concluded that the NCDRC's view was incorrect and overruled it. The key takeaways are:

- Complaints alleging "deficiency in service" against practicing advocates are not maintainable under the Consumer Protection Act.
- The legal profession is *sui generis* and distinct from commercial services.
- The advocate-client relationship constitutes a "contract of personal service," which is excluded from the definition of "service" in the CP Act.
- Advocates are effectively regulated by the Advocates Act, 1961, and the relevant Bar Councils.
- However, question regarding whether doctors, should remain under the CP Act were referred to a larger bench.